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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

RICKIE L. HILL,

Plaintiffs,

vs.

C/O W. OAKLEY, et al.,

Defendants.

3:11-cv-00609-RCJ-WGC

ORDER

Plaintiff, who is a prisoner in the custody of the Nevada Department of Corrections, filed an amended civil rights complaint pursuant to 42 U.S.C. § 1983 (ECF No. 7) pursuant to the Court's original screening order of September 26, 2011. The amended complaint was dismissed with prejudice for failing to state a claim under either the Eighth Amendment of the Equal Protection Clause. The order was entered on December 9, 2011 and judgment was entered the same day. *See* ECF Nos. 9 and 10.

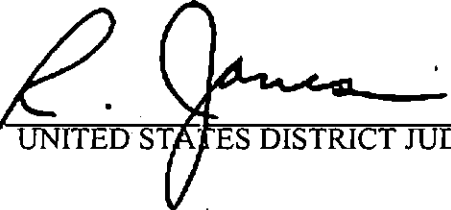
On December 27, 2011, plaintiff moved the Court for a Certificate of Appealability form. ECF No. 11. On January 17, 2012, plaintiff filed a "Belated" Notice of Appeal which included a Memorandum of Cause indicating that plaintiff's notice of appeal was tardy "due to his inability to find prompt legal assistance and, time frame constraints relative [sic] completion of notice and ability of its timely service by mailing." ECF No. 12, p. 1, note. The matter was remanded to this Court for consideration of plaintiff's "tardy" appeal construed as a request for extension of time under Fed. R. App. P. 4.

Pursuant to Fed. R. App. P. 4(a)(5), this Court may extend the time for filing a Notice of Appeal with a showing of excusable neglect or for good cause on the part of the untimely appellant. As noted above, plaintiff asserts his notice of appeal was "tardy" because he was unable to find legal

1 assistance or the constraints of mailing the notice interfered. Considering the facts and conditions of
2 plaintiff's incarceration, the time for filing the notice of appeal shall be extended. The Notice of Appeal
3 filed in this matter shall be considered timely. All other pending motions are **DENIED**.

4 **IT IS SO ORDERED.**

5 Dated this 11th day of May, 2012.

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UNITED STATES DISTRICT JUDGE